

## REMARKS

## Status of the Claims

Claims 1, 3-7, 21-24, 29-38, and 43-48 are presently pending in the application, with Claims 2, 8-20, 25-28, 39-42 having been previously canceled and new Claim 48 having been added.

### Summary of Telephone Interview With Examiner

On April 17, 2008, applicants' attorney (Sabrina MacIntyre, Registration No. 56,912) conducted a brief telephone interview to discuss the current Office Action with Examiner Ramillano in view of the Danylewych-May et al. reference. The discussion focused on Danylewych-May's disclosure that teaches the vaporized sample is analyzed as a gas (column 6, lines 38-43). Applicants' attorney pointed out that in contrast to this teaching, that independent Claim 1 recites a means for analyzing while the particles remain disposed on the regenerable solid collection surface. Although no agreement was reached, the Examiner agreed to consider this issue if presented in a response to the pending Office Action.

Applicants' attorney would like to again thank Examiner Ramillano for her time and willingness to discuss these issues during the Telephone Interview.

## Allowable Subject Matter

The Examiner has indicated that Claims 3-6, 22-23, 29-32, 34-38 and 43-46 are allowed.

Claims Rejected Under 35 U.S.C. § 102

The Examiner has rejected Claims 1, 7, 21, 24, 33, and 47 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,859,375 (Danylewych-May et al.).

In the interest of reducing the complexity of the issues for the Examiner to consider in this response, the following discussion focuses on independent Claims 1, 21 and 47. The patentability of each remaining dependent claim is not necessarily separately addressed in detail. However, applicants' decision not to discuss the differences between the cited art and each dependent claim should not be considered as an admission that applicants concur with the Examiner's conclusion that these dependent claims are not patentable over the disclosure in the cited references. Similarly, applicants' decision not to discuss differences between the prior art and every claim element, or every comment made by the Examiner, should not be considered as an admission that applicants concur with the Examiner's interpretation and assertions regarding those claims. Indeed, applicants believe that all of the dependent claims patentably distinguish over the references cited. In any event, a specific traverse of the rejection

1 of each dependent claim is not required, since dependent claims are patentable for at least the same  
2 reasons as the independent claims from which the dependent claims ultimately depend.

3 Patentability of Independent Claim 1

4 A significant difference exists between the recited subject matter and the cited art because the cited  
5 art does not analyze the sample *while the immobilized particles remain disposed on the surface*.

6 More specifically, the third subparagraph of independent Claim 1 recites (emphasis added):

7 *means for analyzing the spot of immobilized airborne particles while the particles*  
8 *remain disposed on the regenerable solid collection surface to determine if the spot*  
*of immobilized airborne particles represents a biological threat.*

9 In contrast, Danylewych-May teaches that sample particles are analyzed in gaseous form after  
10 being vaporized, such that the sample is analyzed while entrained in a flow of air or other gas  
11 (Danylewych-May, column 6, lines 41-44). Thus, Danylewych-May teaches that although particles  
12 are originally disposed on a substrate 45, that the particles are removed from the substrate prior to  
13 analysis, using heater 58 that is activated to vaporize and desorb a sample (Danylewych-May,  
14 column 6, lines 39-41). Thus, the particles in Danylewych-May *are not* analyzed while on the  
15 collection surface.

16 Accordingly, the rejection of independent Claim 1 as being anticipated by the Danylewych-  
17 May reference should be withdrawn. Because dependent claims include all of the elements of the  
18 independent claim from which the dependent claims ultimately depend, dependent Claim 7 is  
19 patentable for at least the reasons discussed above in regard to independent Claim 1, and the rejection  
20 of dependent Claim 7 as being anticipated by the Danylewych-May reference should also be  
21 withdrawn.

22 Patentability of Independent Claim 21

23 A significant difference exists between the recited subject matter and the cited art because the cited  
24 art does not teach measuring a biological signature while the particles remain deposited on the regenerable  
25 solid collection surface.

26 More specifically, the second step of independent Claim 21 recites (emphasis added):

27 *measuring a biological signature present in the particles comprising the spot, using a*  
28 *detector configured for sensing the biological signature of the particles, while the*  
29 *particles remain deposited on the regenerable solid collection surface*

1        As noted above, the sample in Danylewych-May *is not* analyzed while on the collection  
2 surface. Accordingly, the rejection of independent Claim 21 as being anticipated by the Danylewych-  
3 May reference should be withdrawn. Because dependent claims include all of the elements of the  
4 independent claim from which the dependent claims ultimately depend, dependent Claims 24 and 33  
5 are patentable for at least the reasons discussed above in regard to independent Claim 21, and the  
6 rejection of dependent Claims 24 and 33 as being anticipated by the Danylewych-May reference should  
7 also be withdrawn.

8 Patentability of Independent Claim 47

9        A significant difference exists between the recited subject matter and the cited art because the cited  
10 art does not teach measuring a biological signature while the particles remain deposited on the regenerable  
11 solid collection surface.

12        More specifically, the second step of independent Claim 47 recites (emphasis added):

13        *subsequently, measuring a biological signature present in the particles comprising the  
14 spot, using a detector configured for sensing the biological signature of the particles,  
while the particles remain deposited on the regenerable solid collection surface*

16        As noted above, the sample in Danylewych-May *is not* analyzed while on the collection  
17 surface. Accordingly, the rejection of independent Claim 47 as being anticipated by the Danylewych-  
18 May reference should be withdrawn.

19 Patentability of New Claim 48

20        Claim 48 is based on Claim 1, and further recites that the means for regenerating the  
21 regenerable solid collection surface by removing particles from the regenerable solid collection  
22 surface does so without removing the regenerable solid collection surface from the air sensor device.  
23 In contrast, the Danylewych-May reference teaches that the substrate 45 is removed from the sample  
24 collection device and inserted into the desorption stage of an analyzer (column 6, lines 23-28).

25 Conclusion

26        Accordingly, all of the claims now submitted define patentable subject matter that is neither  
27 anticipated nor obvious in view of the prior art cited. The Examiner is thus requested to pass the present  
28 patent application to issue in view of the amendments and the remarks submitted above. If there are any  
29 questions that might be addressed by a second telephone interview, the Examiner is invited to telephone  
30 the undersigned attorney, at the number listed below.

Respectfully submitted,

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